

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: : **Chapter 7**
MDC SYSTEMS, INC. :
: **Debtor(s)** : **Bky. No. 08-14669ELF**

O R D E R

AND NOW, upon consideration of the Objection (“the Objection”) to the Proof of Claim of Brandywine Operating Partnership, L.P. (Proof of Claim No. 4), filed by Graf & Graf, P.C. (“the Objector”), and after a preliminary hearing, and upon consideration of the written submissions of the Objector and Michael Kaliner, the chapter 7 Trustee (“the Trustee”),

It is hereby **ORDERED** that:

1. The Objection is **DISMISSED WITHOUT PREJUDICE**.
2. If the Trustee raises an estate sufficient to provide for a distribution to general unsecured creditors, the Objector retains the right, in the future, to seek court authority to re-assert the Objection on behalf of the bankruptcy estate consistent with the principles set forth in Fred Reuping Leather Co. v. Fort Greene Nat. Bank, 102 F.2d 372, 372-73 (3d Cir. 1939) (general creditor of debtor has no right to contest another creditor's unless without court permission and unless the trustee has refused to do so) and In re Morrison, 69 B.R. 586, 589 (Bankr. E.D. Pa. 1987) (creditor seeking to exercise Trustee's powers on behalf of the estate must obtain permission from the court and must establish that the Trustee's failure to act is an abuse of discretion).



Date: July 7, 2009

ERIC L. FRANK
U.S. BANKRUPTCY JUDGE